IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 9TH NOVEMBER 2006 / 18TH KARTHIKA 1928

Bail Appl..No. 6479 of 2006

CMP.6753/2006 of J.M.F.C.,TIRUR
CRIME NO.791/2006 OF TIRUR POLICE STATION

.....

: PETITIONERS/ACCUSED NO.3,4 & 5

1. MUSTHAFA, S/O.BEERAN KUTTY HAJI,
   NOLLANCHERY HOUSE, PACHATTIRI AMSOM,
   VAKKAD, MALAPPURAM DISTRICT.

2. KUNHUMON, S/O.MUHAMMED KUTTY,
   KUTTANTE PURAKKAL HOUSE, PACHATTIRI AMSOM,
   MALAPPURAM DISTRICT.

3. MOITHEEN BAVA, S/O.MOOSAKUTTY,
   PATTATH HOUSE, PACHATTIRI AMSOM,
   MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: COMPLAINANT AND STATE

1. SUB INSPECTOR OF POLICE,
   TIRUR POLICE STATION, MALAPPURAM DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
   THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY DGP SRI P.G. THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 6479/2006

DATED THIS THE 9TH DAY OF NOVEMBER, 2006

O R D E R

The petitioners are accused Nos. 3 to 5 in crime No.791/2006 of Tirur Police Station, for the offence punishable under Sections 120B, 452 and 307 IPC read with Section 34 IPC. They are before this Court, for an order under Section 439 Cr.P.C.

2. The facts reveal that the petitioners who are belonging to 'Indian Union Muslim League', had trespassed into the house of a DYFI worker and assaulted the women, who were present in the house, inflicting serious injuries.

3. The learned counsel for the petitioners, however, submits that the names of these petitioners were not mentioned by any of the injured persons or others and the names of these persons were added because of the political animosity and therefore, prayed that they may be granted bail, as they are in judicial custody from

23.10.2006.

4. I had gone through the wound certificate. I had also seen that number of women had been assaulted and injured in the occurrence. Thus the prosecution calls the occurrence as a heinous act on the part of the intruders, that this is the first time in Kerala that the political persons, because of the rivalry between the political parties, trespassed into the house and attacked the helpless women. Therefore, the learned Director General of Prosecution submits that the matter may be taken very seriously. I had gone through the C.D file also and I find that the names of these persons were not mentioned at the time of the occurrence.

5. I agree that the FIR need not contain all the details of the accused, who committed the offence, particularly, when the women were very much frightened when they were attacked in their house by a group of men. They may even fail to note the names of the persons, who attacked them. The same may only be

recollected and identified in a later stage.

6. Without entering into any discussion on the merit of the matter and considering the materials that are available before me, I grant bail and release the petitioners from jail, subject to the following conditions:-

(a). Each petitioner shall execute a bond for Rs.20,000/-, with two solvent sureties, each for the like sum, to the satisfaction of the Judicial Magistrate of First Class, Tirur.

(b). Immediately on release of the petitioners, they shall report before the Investigating Officer of Tirur Police Station, and from there, they shall proceed out of the limit of Tirur Police Station.

(c). The petitioners shall not enter the limit of Tirur Police Station, till the filing of the final report, by the Investigating Officer, before the Court below.

(d). The petitioners shall report their place of residence for the above period, to the Investigating Officer.

The application is allowed as above.

J.M.JAMES
JUDGE

mrcs